

**MINUTES**  
**Montana Fish, Wildlife & Parks Commission Meeting**  
**FWP Headquarters – 1420 East 6<sup>th</sup> Avenue**  
**Helena, MT**

**JUNE 12, 2008**

**Commission Members Present:** Steve Doherty, Chairman; Shane Colton, Vice-Chair; Dan Vermillion; Willie Doll; Vic Workman.

**Fish, Wildlife & Parks Staff Present:** Jeff Hagener, Director, and FWP Staff.

**Guests:** See June 12, 2008 Commission file folder for names of those who signed in.

A work session followed the meeting to discuss Big Horn River concerns.

**Topics of Discussion:**

1. Call to Order - Pledge of Allegiance
  2. Approval of Commission Meeting Minutes of May 15, 2008
  3. Approval of Commission Expenses through May, 2008
  4. Cornwell Ranch Conservation Easement near Glasgow – Final
  5. Circle R Ranch Fee Acquisition near Billings – Final
  6. Stuckey Ridge (Jamison) Habitat Acquisition – Final
  7. Hodges Acquisition near Thompson Falls – Final
  8. Elk Island WMA Sharecrop Agreement - Final
  9. Seven Sisters Sharecrop Agreement – Final
  10. 2009 Moose, Sheep, Goat, Deer and Elk License Auction Rules - Final
  11. 2008 Bison Seasons, HDs and Quotas - Tentative
  12. 2008 Lion Quotas - Final
  13. 2008 Furbearer Seasons and Quotas - Tentative
  14. 2008 Wolf Quotas - Tentative
  15. Bearmouth (Tripp) FAS Donation – Final
  16. Teton Canyon Acquisition – Endorsement
  17. Natural History Center FAS on the Bitterroot River – Endorsement
  18. Roundup and Sunset Hill FASs on the Blackfoot River – Endorsement
  19. Sixteen Mile FAS Donation near Ringling – Endorsement
  20. Budget and Legislative Priorities – Final
  21. Angling Restriction and Fishing Closure ARM – Final
  22. Hay Creek Land Acquisition in the North Fork of the Flathead - Endorsement
  23. Open Microphone – Public Opportunity to Address Additional FWP Issues
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1. **Opening - Pledge of Allegiance.** Chairman Doherty called the meeting to order at 8:00 a.m. and led the Pledge of Allegiance.

**2. Approval of May 15, 2008 Commission Meeting Minutes.**

*Action: Vermillion moved and Doll seconded the motion to approve the May 15, 2008 meeting minutes. Motion carried*

**3. Approval of the May, 2008 Commission Expense Report.**

*Action: Doll moved and Workman seconded the motion to approve the May expense report as presented. Motion carried.*

**4. Cornwell Ranch Conservation Easement near Glasgow – Final.** Ken McDonald, FWP Wildlife Division Administrator, explained that FWP proposes to purchase the Cornwell Ranch conservation easement for \$5,050,000, which is \$25,000 less than appraisal. The Cornwell Ranch consists of 24,000 deeded areas in Valley and Phillips counties located along the Milk River. The ranch holds grazing leases on more than 100,000 acres of surrounding public land managed by the BLM and DNRC. The conservation easement will provide permanent access to the 24,000 deeded acres and to thousands of additional acres of public land, will provide fishing opportunities on the Milk River, and will provide for the continuation of traditional ranching operations. This easement will provide habitat for whitetail deer, mule deer, antelope, sage grouse, sharp-tailed grouse, turkey, waterfowl, birds, raptors, and other species.

Following Commission endorsement in 2007, terms for the easement and management plan were negotiated to include a rest-rotation grazing system, vegetation and nesting cover enhancements in the Milk River corridor, no ground cultivation, no outfitting, and no residential subdivisions. The terms of the easement also stipulate limitations on mineral exploration and extraction. A 640-acre section on the northeast end of the property has been mapped out for potential wind energy development.

The easement site will require some water well development and some fencing. The total cost for those expenses is \$350,000 dollars, which would be split 50/50 with the Cornwells over a 5-year period.

The public comment period, ending May 28, generated forty-eight comments in support of the acquisition, and two comments in opposition. DNRC expressed concern about the potential effect of the conservation easement limiting access for mineral development on adjacent DNRC land.

Funding sources are anticipated to include Habitat Montana, Upland Game Bird Enhancement Program, Montana Fish & Wildlife Conservation Trust and, subject to federal approvals, NAWCA and State Wildlife Grants (USFWS).

McDonald said \$500,000 will be lost at the end of the fiscal year if it is not committed, as the authority to spend does not carry over to next year. The Habitat Montana funds are generated from a surcharge on hunting licenses that is earmarked for habitat acquisition (easements, fee title purchases, and leases). The surcharge generates approximately \$3 million per year, and can bank up.

Mary Sexton, DNRC Director, stated that they are working with FWP on a number of land projects. In this case, DNRC plays a significant role because this transaction impacts and encumbers use of state lands. DNRC may be impacted relative to any wind energy development. The 25,000-acre block in the northeast corner currently leased by the Cornwells is open for competitive bid every ten years. In response to a question from Colton, Director Sexton replied that DNRC supported approval of the proposed easement.

Pat Gunderson, FWP Region 6 Supervisor, said FWP has been working closely with DNRC on this. Three of the four parcels that DNRC has identified regarding land banking do not pertain to the land bank ARM rule. The Cornwells feel if a wind farm could be developed on state land, one could be built on their property as well. On the western side of the ranch there are existing gas wells, and on the east side there is potential for oil. DNRC has leases for oil on state trust lands there. Public access is provided by county roads and easements.

Doherty asked if the tribes were contacted and how they felt. Gunderson said immediate neighbors were contacted, but there was no direct contact with the tribes. News releases announced the proposal however.

Becky Jakes-Dockter, FWP Legal Counsel, clarified that the land under consideration is the fee title land owned by the Cornwells. The Fort Peck Reservation is not an adjacent neighbor to this ranch. Terms of this agreement do not apply to DNRC or BLM lands, however FWP went to great lengths to accommodate the concerns of BLM and DNRC.

Dave Dietrich, attorney for the Cornwells, said a mineral title exam was not conducted. There has been no leasing activity. Mineral oil and gas exploration is not feasible because of the strata. He has been involved in the negotiations and this has been a stringent and long-term process with strict adherence by FWP in honoring the Cornwell's requests.

Colton asked if 1,100 hunter days is a comfortable number. Gunderson said the number is the minimum number at which the Cornwells can close their land. That number was not a negotiated number - FWP abjectly entered the number into the agreement.

Jim Bailey, Gallatin Wildlife Association, said there is no reference to the SWG conservation strategy.

McDonald replied that the conservation strategy outlines tier 1 habitat and tier 1 species, and identifies focus areas. The Milk River is a focus area, and the riparian and wildlife area is a tier 1 habitat type, and the prairie species that occupy the area qualifies as tier 1 species.

Block management areas are already located up and down the river so this site will be a welcome addition. More money is paid per acre for CRP where there is no hunting than will be paid for this easement in perpetuity.

*Action: Colton moved and Vermillion seconded the motion to approve the purchase of the Cornwell Ranch Conservation Easement with consideration of increasing the numbers.*

Lee Cornwell said the property is dispersed, and access points to the river are all along the county roads. They don't monitor it. FWP will take over management to make sure sportsmen obey rules etc.

Dockter said the language of the agreement provides that when demand exists, the landowner must allow the specified amounts in the agreements. There are reasons that someone can be disallowed to access their land and circumstances under which they can deny hunter access.

Gunderson said the number of days can be further discussed. He reiterated that it was not the Cornwells who came up with the number – it was FWP.

Willie expressed his concern that the descendants or new landowners will not agree with this.

Vermillion questioned if there are considerations in the agreement that allow future negotiations of numbers.

Workman recommended removing numbers entirely.

Dave Dietrich, Attorney for the Cornwell family, said the language could be generalized, and the number could be removed, however including a number protects FWP.

Darlene Edge, FWP Land Agent, agreed that minimum numbers protect FWP. There would be no basis for defense in a court case if no minimum numbers were in place. Numbers are also set for biological reasons. The number of permits controls the status of wildlife. She stated that this is not the time to negotiate - negotiations should have been completed long before this.

*Action on motion: Motion carried. Four in favor – one opposed. (Doll opposed).*

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Chairman Doherty asked for a running tally of the funds that are available, the funds that have been expended, and the projects that are on the horizon specific to land projects.

Vice-Chairman Colton asked for an itemization of money sources.

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**5. Circle R Ranch Fee Acquisition near Billings – Final.** Ken McDonald, FWP Wildlife Division Administrator, stated the 3976-acre Circle R River Ranch is located 30 miles east of Billings along the north bank of the Yellowstone River, and adjoins 4,500 acres of state and BLM land. The property includes cottonwood stands, ponderosa pines, upland bird grassland, coulees with trees, sagebrush-grasslands, and river channels. Wildlife includes whitetail deer, mule deer, antelope, occasional elk, sage grouse, sharp-tailed grouse, turkey, waterfowl, and many migratory songbirds. The grasslands support a large black-tailed prairie dog colony and the many species associated with this habitat. It is considered a priority habitat, which meets criteria for the Comprehensive Plan and Habitat Montana program. FWP is looking into the potential for developing a campground facility in the southeast corner of the property. One main road passes through the property, which FWP would maintain. There could be some recreational trails development in time.

If the Department does not pursue the acquisition, the property will be sold to a private buyer for residential development or for a hunting retreat. The current landowner is not interested in a conservation easement, so fee title purchase by the Department is the only conservation alternative.

The Environmental Assessment went out for comment. Twenty comments were received indicating mixed support for the project. Opposition came from adjoining landowners. Gary Hammond has met with these landowners to alleviate concerns and assure them that FWP is a good neighbor.

The asking price is \$6.25 million. The Conservation Fund has negotiated a purchase agreement with the landowner and has offered to convey the property to FWP after Land Board approval for \$5,298,300, which is a discount of about \$267,000 from the appraised value. The Parks Division will provide an undetermined amount of Access Montana funds as well.

*Action: Colton moved and Vermillion seconded the motion to approve the purchase of the Circle R River Ranch in Yellowstone County for the amount of \$5,298,300.*

Doll questioned how traffic will be monitored, who will compensate landowners if cattle are killed, and how dust abatement will be handled.

Gary Hammond, FWP Region 5 Supervisor, said he and regional staff have spent a lot of time with the neighbors. It is a significant county road and there will be an increase in traffic. The county commissioners have agreed to work with FWP on dust abatement, and have been consulted with as far as setting speed limits. FWP will place signs and will expand enforcement efforts, and plans to establish parking areas to keep people on established roads. It is better to stop the problems before they begin. If vegetation is damaged, it will be addressed.

Doll said there is an area where four wheelers are a real problem. Hammond agreed, and stated that FWP has met with the Bureau of Land Management who agreed that FWP would be responsible to control that. Off road vehicles are not to leave established roads. As a WMA, FWP wants to be mindful of wildlife displacement - this acquisition is for wildlife.

Doll asked why FWP didn't have an agricultural appraisal done as opposed to accepting the appraisal that was done by the sellers.

Hugh Zackheim, FWP Land Agent, said the appraiser who did the work possesses high credentials, and FWP reviewed the appraisal after it was completed.

Bruce Bugby, Conservation Fund, said that early in the discussions when the basic rules were set forth, it was stipulated that a review of the appraisal by FWP would suffice. They are confident that the appraiser did a good job, and they feel it is a good appraisal.

Doll asked if there is a need for a hazmat appraisal after the house and barn were razed. Hammond assured the Commission that a hazmat review conducted by the Lands Division indicated there are no hazardous materials at the site.

Workman asked if there will be horseback riding access. Hammond replied that horses are allowed with some stipulations, such as weedfree hay. At this point, foot and horse traffic is acceptable. It will be monitored. Other places have not revealed any problem by horses. Gates may be erected that allow horse traffic, but not motorized traffic. The Region shares a good relationship with the Back Country Horsemen and will work with them.

Doll said there are ethical problems in Montana, such as misuse of land, garbage left behind, and gates left open. FWP may need to start teaching adult some hunter education classes. Enforcement should come down hard on violators. Pack it in – pack it out.

Colton said the County Commission has indicated the Sheriff's Office will patrol the area in conjunction with FWP's enforcement officers. There will be a presence of caretakers and wardens. This is not going to be a party place.

Hammond said if this project is approved, FWP proposes not to open it to the public until September after an interim parking area is developed.

*Action on Motion: Motion carried. (Unanimous).*

**6. Stuckey Ridge (Jamison) Habitat Acquisition – Final.** Ken McDonald, FWP Wildlife Division Administrator, explained that FWP proposes to purchase approximately 296 acres fee-title from Sherri Jamison in Anaconda-Deer Lodge County for high priority bighorn sheep habitat. This acquisition would be managed in conjunction with Blue-Eyed Nellie WMA, Garrity Mountain WMA, and Lost Creek WMA. A residential subdivision is slated for the site if FWP does not acquire the land.

A combination of funding sources would be used to purchase the site. The American Land Conservancy and Five Valleys Land Trust brokered a proposed transaction in two phases. The Phase I purchase would occur in June 2008, transferring the first 220 acres to FWP for \$770,000 (plus \$3,000 in closing costs). The Foundation for North American Wild Sheep, Safari Club, and Anaconda Wildlife EXPO pledged \$16,000 toward the Phase I purchase price and closing costs. The remaining \$757,000 would come from FWP's Sheep License Auction Fund and Habitat Montana Program. The Phase II purchase would occur in January 2009, and would transfer the remaining 76 acres to FWP for \$262,500. The American Land Conservancy has applied for a grant from the Natural Resource Damage Program to fund the Phase II purchase. FWP will pay the taxes so the tax roles will not be affected. Mack Long, FWP Region 2 Supervisor, said land has been acquired in this area as it becomes available; the total acreage now equals approximately 460 acres.

*Action: Workman moved and Colton seconded the motion to approve the two-phase purchase of the Jamison property in Anaconda-Deer Lodge County. Motion carried.*

**7. Hodges Acquisition near Thompson Falls – Final.** Ken McDonald, FWP Wildlife Division Administrator, explained that this proposal is for the acquisition of 50 acres in Sanders County near Thompson Falls, locally known as the "Bighorn Sheep Viewing Area", at a cost of \$450,000. This property would be managed as a Wildlife Management Area in the lower Clark Fork region for winter range conservation and lambing habitat for the migratory bighorn sheep herd in Bighorn Hunting District 121. Comments have all been supportive.

The acreage would be purchased with Bighorn Sheep auction funds and with contributions from Flathead Wildlife, FNAWS, Five Valleys Chapter of Safari Club International, a private individual, and the Plains Junior High School penny drive that collected 40,900 pennies (\$409.00).

*Action: Workman moved and Vermillion seconded the motion to approve the proposed fee-title acquisition of the approximately 50-acre Hodges property, as described in the Department's decision notice of May 29, 2008. Motion carried.*

**8. Elk Island WMA Sharecrop Agreement – Final.** Ken McDonald, FWP Wildlife Division Administrator, explained that this proposal is to renew an existing 86-acre cooperative agreement with Elk Island WMA and the landowner. It is irrigated hay land spread throughout five different fields, of which the landowner will leave 24 acres standing for wildlife habitat and use the remainder for personal use.

*Action: Doll moved and Vermillion seconded the motion to renew the Elk Island WMA Agricultural Lease for the 2008 season. Motion carried.*

**9. Seven Sisters Sharecrop Agreement – Final.** Ken McDonald, FWP Wildlife Division Administrator, explained that this proposal is to renew an existing 87-acre sharecrop agreement. Cropland has been part of the Seven Sisters WMA since its inception. Of the 39-acres that are hayed, the cooperator keeps two-thirds of the hay, and the remainder is left for wildlife habitat.

*Action: Vermillion moved and Workman seconded the motion to renew the Seven Sisters WMA Agricultural Lease for the 2008 season. Motion carried.*

**10. 2009 Moose, Sheep, Goat, Deer and Elk License Auction Rules – Final.**

No recommended changes to the tentatives.

The development of an administrative rule to replace the annual rule is under consideration.

*Action: Vermillion moved and Doll seconded the motion to adopt the 2009 auction / lottery rules for the moose, sheep, goat, mule deer and elk licenses as proposed by the Department. Motion carried.*

**11. 2008 Bison Seasons, HDs and Quotas – Tentative.**

No recommended changes to the 2007 seasons, HDs and quotas. Each season has been refined over the last three years since Bison hunting was once again authorized.

Vermillion suggested simplifying the cow/calf drawing process by creating a list from each district, and that since the testing requirement was not serving any purpose, and takes a great deal of administrative time, he suggested that regional staff could educate the hunters on the ground.

*Action: Vermillion moved and Colton seconded the motion to adopt the tentative 2008 Bison regulations and quotas with the two amendments of creating a cow/calf drawing list from each district, and having regional staff educate the hunters on the ground.*

Chairman Doherty asked for public comment.

Jim Bailey, Gallatin Wildlife Association, opposes a season for hunting bison, including tribal harvest. He asks that FWP work with the National Park Service to survey the bison to obtain numbers, age structure and distribution soon. No final decision should be reached before numbers are available. Continue genetics research to maintain integrity of herd. The number has been reduced from 4,700 to

2,000. There are two large breeding populations in the Park with different age structures and genetics. Two thousand animals are necessary in any herd to maintain the integrity of the herd -- the future integrity of the Park animals has been jeopardized by events of this last year. Policy is driven by the Department of Livestock. The North American Wildlife Conservation Model has been violated. Gallatin Wildlife Association supports FWP's management of bison using science-based policies and decisions, however the proposed 2008 season will not fit requirements.

Lisa Upson, Natural Resources Defense Council, opposed the proposal for a bison hunt. Half of population was killed, leaving fewer than 2000 bison. Hunting would add insult to injury, and a hunt cannot be justified after so many bison were killed over the last year. Montana should redo the bison plan - circumstances have changed. Species habitat needs to be considered.

Jim Aldrich, Montana Wildlife Federation, echoed Baileys remarks. He said to use correct data.

Vermillion asked what the quota numbers were based on.

Kurt Alt, FWP Region 3 Wildlife Manager, stated that the numbers came from the redesigned plan that was implemented last year to add more flexibility to issue permits or not. FWP has the option to not draw any of them. The cow calf licenses may or may not be issued based on winter conditions, counts, etc.

Doherty asked what the population of old bulls in YNP is, and asked if there is still a good age structure. Biological concerns and genetic diversity need to be clearly demonstrated. He questioned if FWP is talking to federal people regarding issues of genetic diversity on wild bison herds. He asked what the Park plans to do since the herd was reduced by half this winter.

Alt replied that FWP has been concerned about over harvest of bulls in Gardiner, which has resulted in lower permit levels. FWP needs to remain more conservative, especially at Gardiner. He does not have data on the age structure at this point.

Pat Flowers, FWP Region 3 Supervisor, noted that an audit came out in April pointing to deficiencies in the Interagency Plan. One point that was focused on was adaptive management changes -- Horse Butte was pointed out as a prime example. A change in land ownership should affect bison management. Over next 6 months, the GAO will address this issue. The tribes will also be invited to participate in the process.

Flowers stated that the activities this last winter were all included under the Interagency Management Plan. It will be difficult for YNP to sustain taking that many animals to slaughter -- they were trapped in the Park.

Doll noted that Brucellosis is an overall problem -- it is not just a bison problem.

*Action on Motion: Motion carried.*



**12. 2008 Lion Quotas – Final.**

Proposed changes to the 2007 licenses/quotas are listed below with the proposed changes to the adopted *Tentatives* in bold.

Region 1 – Mountain Lions

HD 100 – increase limited licenses from 20 to 25 (female subquota = 10)

**HD 103 – increase female subquota from 3 to 4**

HD 104 – increase limited licenses from 10 to 12 (**female subquota from 3 to 5**)

HD 109 – increase limited licenses from 4 to 6 (female subquota = 2)

**HD 120 – increase female subquota from 2 to 3**

**HD 121 -- increase female subquota from 9 to 10**

**HD 130 – increase female subquota from 3 to 4**

Region 2 – Mountain Lions

HD 200/201 – increase 7 quota to 9 **12** either sex special licenses (female subquota = ~~3~~ **2**)

HD 202/203 – increase 12 quota to ~~14~~ **22** either sex special licenses (female subquota = ~~5~~ **3**)

HD 204/260/261 – increase 3 quota to ~~4~~ **3** **legal male** special licenses (~~female subquota = 1~~ **no female subquota**)

HD 210 – convert 2 quota to 2 legal male lion special licenses

HD 211/216 - convert 2 quota to 2 legal male lion special licenses

HD 212/215 - convert 2 quota to 2 legal male lion special licenses

HD 213/214 - convert 1 quota to 1 legal male lion special licenses

HD 240 – increase 3 quota to ~~4~~ **3** **legal male** special licenses (~~female subquota = 1~~ **no female subquota**)

HD 250 – increase 4 quota to ~~5~~ **4** **legal male** special licenses (~~female subquota = 1~~ **no female subquota**)

HD 270 – increase 3 quota to ~~4~~ **3** **legal male** special licenses (~~female subquota = 1~~ **no female subquota**)

HD 280/281/284/293 – increase 4 quota to 5 either sex special licenses (female subquota = 1)

HD 283/285 – increase 3 quota to 4 either sex special licenses (female subquota = 1)

HD 290/291/292/298 – increase 4 quota to 5 either sex special licenses (female subquota = 1)

*Action: Workman moved and Colton seconded the motion to adopt the Region 1 and Region 2 Final 2008 Mountain Lion quotas as recommended by the Department.*

Chairman Doherty asked for public comment.

Rod Bullis supports the changes.

Cal Rourke supports the change. The lower the quota, the greater the possibility the quota will be reached.

*Action on Motion: Motion carried.*

Region 4 – Mountain Lions

HD 404/421/444/450 – reduce female quota from 7 to 3 and male quota from 4 to 3

HD 413/432 – reduce female quota from 4 to 3

HD 418/420/448 – reduce female quota from 4 to 3 and male quota from 4 to 3

HD 422/423/424/425/442 – reduce male quota from 10 to 7

Regions 3, 5, 6 and 7 – Mountain Lions

No recommended changes to the 2007 regulations.

*Action: Colton moved and Vermillion seconded the motion to adopt the Regions 3, 4, 5, 6 and 7 Final 2008 Mountain Lion quotas as recommended by the Department. Action: Motion carried.*

**13. 2008 Furbearer Seasons and Quotas – Tentative.**

No recommended changes to the 2007 seasons and quotas except those listed below.

**DEFINITIONS**

- Ground Set – adjust height from 36 to 48 inches
- Other Sets – adjust height from 36 to 48 inches

**GENERAL TRAPPING REGULATIONS**

- Snares – Add: *Relaxing snares are allowed.* (clarification)
- Change Trapping District (TD) boundary between TD 3 and TD 5 along a portion of the Yellowstone River to match regional boundaries for regulation and enforcement purposes.
- Add language to furbearer, upland game bird and waterfowl regulations describing process to report incidental captures (clarification): *To improve understanding of accidental dog captures in traps or snares, persons should report such captures to the nearest FWP regional office within 48 hours.*

**FURBEARER REGULATIONS**

- Ground Sets Along Public Roads and Highways (clarification) - Add: *and snares* – Remove: ~~publicly owned and maintained road. Definition of a publicly owned and maintained road: A road owned by a subdivision of the government, including city, county, state or federal government and maintained by the government for year round, legal car and light truck traffic.~~
- Body-Gripping Ground Sets – Change To: *Public Land Ground Sets* (clarification) – Add: *on federal and state lands* (clarification)
- Public Land Roads and Trails – Add: *from the edge of* (clarification)
- Public Trailheads – Change To: *Public Land Trailheads* – Change Distance from 300 feet to 1000 feet
- Public Campgrounds – Change To: *Public Land Campgrounds*
- R2 Furbearer Trapping Closure Areas – Designated USFS Recreation Areas: Blue Mountain, Rattlesnake, and Pattee Canyon

**FURBEARER SEASONS**

- Wolverine – Modify WMU boundary between WMU 2 and WMU 3.  
Adjust WMU Quotas –
  - WMU 1 – Total quota 4 wolverine. Female subquota of 1 in TD 1 portion, female subquota of 1 in TD 2 portion, and female subquota of 1 in TD 4 portion. Female subquota will close season in TD portions of WMU 1.
  - WMU 2 – Total quota 3 wolverine. Female subquota of 1 in WMU 2.
  - WMU 3 – Total quota 2 wolverine. Female subquota of 1 in WMU 3.

- No skull return for bobcat and marten. Skull return will continue for otter, fisher, and wolverine.
- Bobcat - Increase quota in R6 from 100 to 125; Increase quota in R7 from 700 to 800.
- Bobcat – Additional restrictions to protect lynx from incidental capture: Define those portions of Trapping Districts 1 and 2 that overlap core lynx habitat. Ground set traps for bobcat in this area must have a inside jaw spread size of 5 3/8 inches or less and snare cables must be at least 5/64 inch in diameter with inside loop size no smaller than 8 inches.
- Additional restrictions to protect lynx from incidental capture: Define those portions of Trapping Districts 1 and 2 that overlap core lynx habitat (same as above). All pole sets in this area must have a pole diameter no larger than 6 inches with trap placed at least 48 inches above the ground
- Swift Fox – Open season in TD 6 from November 1 to March 1. Trapper limit of 3 swift fox. TD quota of 20 foxes. Mandatory 24-hour reporting. 48-hour season closure when quota reached. Mandatory 10-day pelt tagging and registration with carcass turn-in.
- Add: Trail Creek Beaver Management Area in TD 3 (special regulations).

The regulations are specific to trapping, however confirmed mortality could also be included. Giddings said that research indicates that the quota of nine wolverines fits the management of them. The numbers of wolverines remain about the same from year to year in spite of trapping.

Les Bighorn, Fort Peck Tribes Fish & Game, opposes Swift fox season. They feel it is a double standard as they were asked not to trap or shoot the swift fox two years ago, and now the state wants to take twenty. The tribes want the same consideration. The cooperative agreement with Montana is a joint technical committee, and the tribes just heard about this third-hand last week. They have a grant to reintroduce more fox.

*Action: Dan moved to remove swift fox from the harvest, change language regarding reporting to say “must” report incidental take of dogs, and accept the remaining proposal. Vic seconded.*

Chris said it was not mandatory but encouraged dog owners and trappers to report. Changing to “must” will apply only to the trappers because these are trapping regulations. Dan said ok.

Chairman Doherty asked for public comment.

Chris Barnes said he travels and trains wilderness managers. He tries to impress on managers when they are faced with difficult decisions to ask how badly can things be messed up if the wrong decision is made. He requested closing trapping to wolverines and fishers. He asked how bad could it mess things up if these seasons are closed – what has been lost? Wolverines will be at risk as global warming progresses. The more trapping, the more incidental take. He encouraged closing the season.

Bob Sheppard, MTA, said FWP has biologists studying these animals and ecology, so listen to those doing it for a living.

David Guillard, Defenders of Wildlife, urged closing wolverine and fisher trapping seasons. Wolverine will become extinct in the US. There is no federal protection for them, and they are biologically threatened. They are low in number and density, and one step toward protecting them is to stop trapping. Urged reductions in quotas if the Commission insists on trapping them. Fishers are rare and their range is limited. Close the season until they are sustainable.

Dennie Shutz, MTA, does not think trappers have not hurt the wolverine population. There are a lot of wolverines. They are not on the brink of extinction. Canada traps them and has not hurt the population.

Lisa Upson, NRDC, said she echoed Barnes and Guillard's comment. Close wolverine and fisher seasons. She supports the removal of the swift fox season.

Rick Hawk, a trapper, suggested checking the numbers.

Kathleen Stachowski, Other Nations Working Group, said wolverines are a species of concern according to FWP's own statements. She does not know why they are even being considered for trapping. She requested FWP gets numbers from scientists rather than trappers. Why is Montana the only state allowing trapping? Wolverines reproduce slowly. She stated that two commissioners recommended closing the season last year, and another said there is a reason to be concerned because the species can be eliminated. FWP staff said that studies have been sabotaged in the past. Add the possibility that trappers don't report to FWP to keep the season open longer. She pleaded that the Commission please close the season.

David Pierce said he has a 100-mile trapline in Region 1. He said if the "little sister organizations" such as PETA and the Humane Society, stop these seasons on wolverines and fishers, they will then go on to other species. Some groups say they are endangered and others don't. He has seen tracks on his trapline.

Anja Heister, Footloose Montana, said she represents several hundred people. She noted that the last time the wolverine seasons were discussed, many letters were written in opposition. The wolverine is in danger due to many factors, for instance they are vulnerable to climate change, etc. 400 breeding pairs are necessary to maintain populations. Research studies are expensive and trappers are not accountable for the studies – the public pays for them through their taxes. FWP is mandated to manage the wolverine for all people – not just a small interest group. There is no mandatory trap check which should be a requirement. Trapping is cruel.

Ann Carlson, Defenders of Wildlife, supports eliminating swift fox trapping. Swift fox were only recently removed from listed status. Incidental trapping occurs outside the season, and if trappers do report incidental take, they are not punished. FWP should work with trappers to reduce incidental trapping.

Dave Wallace, MTA, said traps can be adjusted.

Jerry Black opposes trapping wolverine, lynx, and swift fox. He asked how ecosystems can be protected when hundreds of people flock to the three trap free zones near Missoula. He expressed concern about setting traps next to rivers. People can't take their dogs on rafts because of snares and traps along the river. He would like to see trap free zones along the river so people can take their dogs with them fishing and floating. Any species struggling to recover should not be trapped.

Don Bothwell, MT Furbearer Alliance, feels trapping is a recreation and it has made him in tune with his environment. Flying bullets are more hazardous than trapping. He said he defends trailhead setbacks. Unrestrained pets are a safety hazard.

Bert Wustne, MTA, said trapping can be good for disease control.

Mike Koeppen said to err on side of caution. He has encountered unethical trappers with setbacks and trails. Responsible trappers should think about not setting traps on trails. Animals are traumatized by traps. He has found animals parts left in traps.

Anja Heister, Footloose Montana, has received twelve reports from people whose dogs were injured or died in traps that were illegally set; the traps had no identification on them. As these twelve occurred in the Bitterroot drainages, she asked the Commission to consider establishing trap free areas in the Bitterroot area. Heister added that there is no leash law on public land - she recommended education, not a leash law.

Workman said there is no scientific evidence that wolverines need protection. Cannot start destruction of heritages by taking away basic rights such as trapping. He said increasing setbacks is ridiculous.

Vermillion said this is emotional issue. There are two sides to the issue who do not listen to each other. People need to respect and listen to each other. He said he heard people wanting to stop trapping wolverines, but they didn't say stop trapping altogether.

Colton said the Commission cannot make decisions based on pro-trapping or anti-trapping. They have to make decisions on whether or not the animal is sustainable. He is uncomfortable with some of the information and non-information. People have a right to take their dogs out in the woods and not run into traps on trails. That is the trappers' responsibility. He stated that FWP must communicate with Ft. Peck – he won't support trapping swift fox until that happens.

*Action on Motion: Motion carried.*

**14. 2008 Wolf Quotas – Tentative.** The U.S. Fish and Wildlife Service delisted wolves from the Endangered Species Act in early 2008, and that decision has since been challenged in court. The Commission adopted a regulatory framework and season structure for public harvest of wolves in February 2008. Reclassification of wolves as a species in need of management and adoption of harvest quotas are the next regulatory steps for the Commission. Ken McDonald, FWP Wildlife Administrator, stated that reclassification of wolves will be accomplished through an Administrative Rule process. This rule will also include wolf conflict management guidelines.

FWP intends to proceed cautiously, pending court action, to ensure continued wolf recovery. The regulations are for hunting only – no trapping. A statewide quota of 75 wolves is proposed with individual Wolf Management Unit (WMU) quotas of 38, 22, and 15 respectively in WMUs 1, 2 and 3. In Unit 1 there is a subunit of 2 which means if two are taken in that area, that area will be closed. Not more than 2 wolves may be taken within a specifically described area adjacent to and west of Glacier National Park. A mandatory check-in is also a part of the requirements. Season dates are October 26, 2008 through December 31, 2008 in most parts of the state; however the back country hunting districts start on September 15 and end December 31. The comment period ends July 18.

Wolves are classified as state endangered species now, so to reclassify them as a species in need of management, the Department must go through the formal rulemaking process. Included would be the guidelines already approved by the Commission. Other statutes and rules are also being reviewed to assure consistency.

*Action: Colton moved and Workman seconded the motion to direct FWP to initiate formal rule making to reclassify the gray wolf from state endangered species to a species in need of management and that the Commission adopt the tentative the wolf harvest quota as proposed by the Department.*

Doherty inquired if the quota of 75 includes those that will be taken by ranchers protecting livestock or by private citizens. McDonald said the quota of 75 is strictly hunting take. Doherty asked that the department be certain the buffer is sufficient.

Carolyn Sime, FWP Wolf Coordinator, said the number that was factored into the Model was 109, based on populations where wolves were taken. They looked at wolves that were born and those that died, and at how many new packs were formed. Some are shot for depredation purposes, but the causes of death can vary. Wolves can contract the parvo and distemper viruses the same as any canine, and mange adversely affects them as well.

Bob Lane, FWP Legal Counsel, stated that on February 28 when the USFWS published the final rule delisting wolves, a group of concerned citizens filed a 60-day lawsuit for an injunction to return the wolf to the endangered species list. The federal defendants asked for more time and were denied because the judge worried about extra killing of wolves. A hearing was held May 26 where FWP presented arguments and the judge received a new look at the situation. There are two sides to this. FWP can be good stewards of the wolves – a conservative approach is being taken for this first hunting season. Judge Maloit said he would make a decision soon. FWP has requested that each state have their own programs.

Chairman Doherty asked for public comments.

Lisa Upson, Natural Resource Defense Council, feels it is too soon to have a season. State should ensure the wolves are recovered in the northern Rockies. The NRDC feels they may be short in number. The Federal goal is outdated. Montana should wait to see how many wolves are killed in other ways before setting quotas. FWP should not set quotas before a decision by the judge.

Barb Cestero, Greater Yellowstone Coalition of Montana, said they are glad that FWP is recommending a conservative proposal. That will provide some time to learn and see how post-delisting shakes out. They encourage a lower quota in Region 3. Packs den up in Yellowstone National Park and move in and out of Montana -- please do as is done in Glacier National Park.

Jerry Black opposes a wolf hunt based on genetic diversity and on pack structure. It costs \$3,000 to collar a wolf. How do we prevent collared wolves from being shot – that is a waste of taxpayers money. The ESA does not provide for a split decision by the judge.

Ann Carlson, Defenders of Wildlife, supports wolf hunts in the future, but six months after delisting is too soon. There are not enough wolves to proceed. Remove the portions of Montana that serve as corridors between populations, reduce risk of killing individuals. Following status quo, 158 wolves will be killed. The quota of 75 is flexible and could be reduced – she hopes that happens. She recommended establishing a corridor for the wolves. There is a possibility that wolf hunts can increase livestock depredation. Wolves are family oriented, and if one or both members of the breeding pairs are killed, it can destroy the family unit. If the family is destroyed, more wolves could be traveling, leaving young wolves to survive on their own. They will pick easy prey such as livestock. She asked FWP to reduce quota to an absolute minimum.

Jim Anderson said he appreciates what has been done for wolves.

Chris Smith noted that collaring wolves is the same as collaring elk or tagging fish.

Colton stated that any deviation from the proposal would not be a good idea as the initial recommendation is before the judge.

*Action on Motion: Motion carried.*

**15. Bearmouth (Tripp) FAS Donation – Final.** Joe Maurier, FWP Parks Division Administrator, presented the proposal to accept the donation of 20 acres of land adjacent to the existing 10-acre Bearmouth FAS. The property has been donated by Gene Tripp and is currently being held by the Five Valleys Land Trust. Upon final Commission approval, the property will be deeded to FWP.

The public comment period generated six comments. One comment expressed concern over potential contamination issues in the upper Clark Fork basin and subsequent liability for clean up. A hazardous materials assessment concluded that the risk for site contamination is low and no remediation actions are proposed near this site. The other comments raised questions relative to weed control, maintenance, etc and were addressed in the Decision Notice.

*Action: Vermillion moved and Doll Seconded the motion to authorize the Department to accept transfer of ownership of the property from FVLT and thank them for their assistance as well as Gene Tripp for his generosity. Motion carried.*

**16. Teton Canyon Acquisition – Endorsement.** Joe Maurier, FWP Parks Division Administrator, stated that FWP proposes to acquire in fee title the 7 Lazy P Deep Canyon Guest Ranch facility and lands located in Teton Canyon approximately 30 miles west of Choteau. The primary objective of this acquisition is to establish a new State Park on the Rocky Mountain Front that would offer public recreation opportunities and resources that are currently not available in other State Parks, and it would be strategically located between Glacier and Yellowstone National Parks.

The property includes two separate parcels. The 500-acre western-most parcel includes a ranch headquarters complex located on approximately 120 acres. The remaining acreage is undeveloped and is bordered by the BLM Blind Horse Outstanding Natural Area to the north and west. The Nature Conservancy owns property to the south, and DNRC State School Trust and private land is to the east. The 520-acre eastern-most parcel includes an area of important big game winter range. Initial

acquisition efforts will focus on the western-most 500 acres and the turnkey ranch facilities. Future objectives include acquiring a conservation easement on the eastern-most acreage, including the important big game winter range, access to adjacent public lands, and diverse recreational opportunities. Access Montana funds would be used to purchase the property.

The landowners recognize the long-term benefits and legacy of making their ranch a public resource and have expressed a strong desire to work with FWP to achieve the vision of establishing a State Park.

Once an appraised value is determined, FWP will negotiate a final purchase price and agreement. The owners have expressed interest in a life estate on their primary ranch residence, which may result in a reduced purchase price.

*Action: Vermillion moved and Workman seconded the motion to endorse initiation of preliminary negotiations in order to acquire the 7 Lazy P Guest Ranch for the purpose of establishing a State Park on the Rocky Mountain Front*

Mary Sexton, DNRC, said she grew up in the area and she knows the family well. The ranch has been built up over the last 50 years, and is a special part of the Front. Buildings are hand hewn. It is an exceptional piece of history and would make an exceptional park. She encouraged the Commission to go forward with this acquisition.

*Action on Motion: Motion carried.*

**17. Natural History Center FAS on the Bitterroot River – Endorsement.** Joe Maurier, FWP Parks Division Administrator, said this 80-acre parcel of land is located along the Bitterroot River between Missoula and Lolo, and consists primarily of cottonwoods and riparian vegetation. It is strategically situated for public access and would likely be a popular put-in point for floaters and anglers.

The property was donated to the Natural History Center, who wishes to sell it to FWP at a cost of approximately \$90,000 although it will appraise for considerably more. FWP is seeking Commission endorsement to proceed with negotiations for potential acquisition of the site.

*Action: Workman moved and Doll seconded the motion to authorize the Department to pursue acquisition of the Natural History Center property. Motion carried.*

**18. Roundup and Sunset Hill FASs on the Blackfoot River – Endorsement.** Joe Maurier, FWP Parks Division Administrator, explained that FWP has maintained these fishing access sites as part of the Blackfoot Recreational Corridor Landowners Agreement for the last 32 years. Under the agreement, FWP manages the sites for public use and, in exchange, the Paws Up Ranch (owner of the sites) has agreed not to charge a lease fee. However, the Ranch recently informed FWP that it is interested in receiving compensation for use of the property. A lease-fee value has not been negotiated to date, pending endorsement from the Commission to work with the Paws Up Ranch to establish an equitable lease value for the properties.



The two sites provide critical public access through a nine-mile reach of the Blackfoot River where there is no other public access due to private land ownership. Sunset Hill FAS is a very small site with very limited parking. Roundup FAS is several acres in size and is an extremely important launch and take-out site on the river. Facilities at Roundup FAS, provided by FWP, include a raft slide launch and a latrine. Both Sunset Hill FAS and Roundup FAS are day-use only sites.

*Action: Workman moved and Colton seconded the motion to authorize the Department to pursue lease agreements with the Paws Up Ranch for the Roundup and Sunset Hill Fishing Access Sites. Motion carried.*

**19. Sixteen Mile FAS Donation near Ringling – Endorsement.** Joe Maurier, FWP Parks Division Administrator, explained that this 75-acre parcel consists of a narrow five-mile long abandoned railroad corridor that touches Sixteen Mile Creek in a number of areas as it parallels the creek. This parcel provides access to DNRC property, thereby providing both hunting and fishing opportunities. The rail bed belonged to the Milwaukee Road rail line until 1980 when this section of track was abandoned and the right-of-way reverted to the adjacent landowners. The property is now for sale.

Recreational advocates from southwestern Montana have submitted a grant proposal to the Montana Fish & Wildlife Conservation Trust for funding to acquire the property as a non-motorized trail and fishing access site. Funds cannot be given to the individuals, but they can be given to FWP if the agency is interested, which it is. The Department is seeking endorsement from the Commission to further explore the potential for acquisition of the site.

*Action: Vermillion moved and Workman seconded the motion to authorize the Department to pursue a potential property acquisition of the old Milwaukee Railroad right-of-way along Sixteen Mile Creek near Ringling. Motion carried.*

**20. Budget and Legislative Priorities – Final.** Sue Daly, FWP Chief of Finance, briefed the Commission on the financial projections, priorities, and proposed legislation prepared by FWP. A summary sheet of legislative and budgetary priority projects was provided for Commission review. The proposed budget was submitted to the Governors office on May 1. FWP has not received any feedback from them yet.

*Action: Workman moved and Colton seconded the motion to approve the FWP budget request and the legislative proposals. Motion carried.*

**21. Angling Restriction and Fishing Closure ARM – Final.** Chris Hunter, FWP Fisheries Division Administrator, explained that over the past six years the commission and department have implemented a policy that restricts fishing when water temperatures and flows become so low that continued angling pressure could impact wild trout populations. The Department has now prepared an Administrative Rule of Montana to replace the policy. The ARM would remove the necessity of gathering an emergency quorum of Commissioners in a short timeframe, often several times in a summer. Additionally, the policy does not have the legal status of an ARM rule.

*Action: Workman moved and Colton seconded the motion to approve the Angling Restriction and Fishing Closure Administrative Rule. Motion carried.*

**22. Hay Creek Land Acquisition in the North Fork of the Flathead – Endorsement.** Chris Hunter, FWP Fisheries Division Administrator, explained that this acquisition is for 53 acres near the mouth of Hay Creek. This land provides exceptional habitat opportunity. The Bonneville Power Administration will provide \$8 million over the next few years toward their mitigation responsibility. They have already invested \$3.5 million in habitat projects in the Swan, Flathead, and Jocko Valleys. The landowners are not interested in an easement – only fee title. The Department is asking for an endorsement from the Commission to begin negotiations with the landowner. The approximate selling price is \$450,000.

Bob Lane, FWP Legal Counsel said the \$8 million does not satisfy BPA's mitigation requirement so FWP and the CS&KT will receive a similar amount for several years. The money is worked into their budget so it is not given out all at once.

*Action: Colton moved and Workman seconded the motion to approve negotiations for acquisition of 53 acres of land near the mouth of Hay Creek. Motion carried.*

**23. Open Microphone – Public Opportunity to Address Additional FWP Issues.** There was none.

*Action: Colton moved and Workman seconded the motion to adjourn the meeting. Motion carried.*

Meeting adjourned at 3:30 p.m.